

Message Text

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ACTION DLOS-06

INFO OCT-01 IO-14 ISO-00 AF-10 ARA-16 EA-11 EUR-25 NEA-10

RSC-01 COA-02 CG-00 CIAE-00 DODE-00 PM-07 H-03 INR-10

L-03 NSAE-00 NSC-10 PA-04 PRS-01 SPC-03 SS-20 USIA-15

ACDA-19 AEC-11 AGR-20 EB-11 COME-00 DOTE-00 FMC-04

INT-08 JUSE-00 OMB-01 OIC-04 DRC-01 /251 W

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R 182358Z DEC 73

FM USMISSION USUN NY

TO SECSTATE WASHDC 2126

LIMITED OFFICIAL USE USUN 5696

E.O. 11652: N/A

TAGS: PBOR, UN

SUBJ: LOS: SUMMARY OF LAW OF THE SEA CONFERENCE

ORGANIZATION SESSION

1. SUMMARY: TWO WEEK ORGANIZATIONAL SESSION OF THE LOS CONFERENCE IN NEW YORK CONCLUDED DEC. 15 HAVING ELECTED EXTREMELY COMPETENT CHAIRMAN OF COMITES AND CONF. PRES., ADOPTED CONF. AGENDA, AND ESTABLISHED COMITE STRUCTURE. ALSO, AFTER DIFFICULT MANEUVERING, US ELECTED TO BOTH GENERAL (STEERING) AND DRAFTING COMITES. CONF., HOWEVER, DID NOT REACH AGREEMENT ON ISSUE OF CONF. RULES OF PROCEDURE. END SUMMARY.

2. H.S. AMERASINGHE (SRI LANKA) WAS ELECTED AS CONFERENCE PRESIDENT BY ACCLMATION. CONFERENCE ESTABLISHED THREE MAIN COMMITTEES (CHAIRERD BY PAUL ENGO OF CAMEROON, ANDREW AGUILAR OF VENEZUELA AND ALEXANDER YANKOV OF BULGARIA); 48-MEMBER GENERAL COMMITTEE, 23-MEMBER DRAFTING COMITE (CHAIRERD BY ALAN BEESLEY OF CANADA) AND NINE-MEMBER CREDENTIALS COMMITTEE. IT ALSO CREATED POST OF CONFERENCE RAPPORTEUR GENERAL, FILLED BY KENNETH RATTRAY OF JAMAICA. WE REGARD ALL OF THESE AS EXTREMELY LIMITED OFFICIAL USE
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COMPETENT INDIVIDUALS.

3. DEADLOCK, HOWEVER, DEVELOPED OVER RULES OF PROCEDURE, WHICH DESPITE INTENSIVE INFORMAL CONSULTATIONS PURSUED UP

TO LAST MINUTE COULD NOT BE RESOLVED. DRAFT RULES HAD BEEN PREPARED BY UN SECRETARIAT, DRAWING UPON RULES EMPLOYED AT PREVIOUS INT'L CODIFICATION CONFERENCE. RULES INCLUDED SEVERAL INNOVATIONS DESIGNED TO RESTRAIN ABUSE OF POWER OF MAJORITY INCLUDING PROVISIONS TO PREVENT PREMATURE VOTING. "GENTLEMEN'S AGREEMENT" WHICH HAD BEEN APPROVED BY UNGA CON- CURRENTLY WITH LOS CONFERENCE RESOLUTION, WAS ALSO APPENDED TO DRAFT RULES. THAT AGREEMENT PROVIDED THAT THERE SHALL BE NO CONFERENCE VOTING ON SUBSTANTIVE MATTERS UNTIL ALL EFFORTS AT CONSENSUS HAVE BEEN EXHAUSTED. ALTHOUGH GENTLEMEN'S AGREEMENT REMAINS IN FORCE, UNHELPFUL EFFORTS WERE MADE AT DECEMBER SESSION TO LIMIT ITS APPLICATION.

4. SOME MEMBERS OF GROUP OF 77, LED BY CHILE, COLOMBIA AND TANZANIA SOUGHT TO DELETE FROM DRAFT RULES MANY, THOUGH NOT ALL, OF THE DEVICES DESIGNED TO PREVENT ABUSE OF POWER BY MAJORITY. USSR, AT OTHER EXTREME, PRESSED FOR CONFERENCE DECISIONS AS A RULE BY CONSENSUS WITH REQUIREMENT OF CONCURRENCE BY ALL REGIONAL GROUPS.

5. DISAGREEMENT ALSO AROSE OVER HOW TO REFLECT GENTLEMEN'S AGREEMENT. TANZANIA AS SPOKESMAN FOR MANY LDC'S ARGUED THAT ADOPTION OF RULES WOULD EXECUTE THAT AGREEMENT AND TERMINATE ITS EXISTENCE. US, AMONG OTHERS, MAINTAINED THAT GENTLEMEN'S AGREEMENT WAS CLEARLY INTENDED TO BE APPLICABLE THROUGHOUT CONFERENCE. FINALLY DISPUTE AROSE OVER HOW TO ADOPT RULES. MOST DELEGATIONS, SUPPORTED BY CONFERENCE SYG (STAVROPOULOS) FAVORED THEIR ADOPTION BY SIMPLE MAJORITY. US, UK, USSR, FRANCE AND JAPAN TOOK EXCEPTION TO THIS VIEW, POINTING TO IMPORTANCE OF RULES TO EVENTUAL SUCCESS OF CONFERENCE.

6. AFTER EXHAUSTING EFFORTS TO REACH COMPROMISE ON RULES WITHIN LAST THREE DAYS OF CONFERENCE, SINCE ORGANIZATIONAL QUESTIONS WERE NOT SETTLED UNTIL DEC. 12, CONFERENCE PRESIDENT CLOSED THE SESSION, ANNOUNCING HE WOULD CONDUCT INFORMAL CONSULTATIONS WITH ANY INTERESTED REPS FEB. 25 - MARCH 1. AMERASINGHE PROPOSED THERE BE FINAL DEADLINE OF JUNE 27 FOR ADOPTION OF RULES (AT END OF FIRST WEEK OF CARACAS SESSION), HOPEFULLY LIMITED OFFICIAL USE
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BY CONSENSUS UT BY VOTING IF IS CONSULTATIONS FAIL TO BREAK DEADLOCK. CONFERENCE APPROVED AMERASINGHE SUGGESTION ALONG WITH ARGENTINE PROPOSAL THAT IF VOTINT BECOMES NECESSARY, UNGA RULES OF PROCEDURE APPLY PROVISIONALLY PENDING ADOPTION OF LOS CONFERENCE RULES. (UNGA RULES WOULD SPECIFY SIMPLE MAJORITY ON ADOPTION OF RULES, UNLESS CONFERENCE DECIDED -- EQUALLY BY SIMPLE MAJORITY -- TO DESIGNATE IT AN IMPORTANT QUESTION).

7. OTHER MAJOR DISUPTE AT SESSION AROSE OVER ALLOCATION OF SEATS ON GENERAL AND DRAFTING COMMITTEES. US SOUGHT SEATS ON BOTH IN KEEPING WITH ESTABLISHED PRACTICE IN PAST INT'L CONFERENCES AND IN UNGA. SATISFACTION OF US OBJECTIVES WAS COMPLICATED BY

DISAGREEMENT OVER WHETHER US SHOULD BE TREATED AS MEMBER OF WESTERN EUROPEAN AND OTHER (WEO) GROUP AND BY SIGNIFICANT OPPOSITION TO AUTOMATIC INCLUSION OF PERMANENT SECURITY COUNCIL MEMBERS ON IMPORTANT CONFERENCE BODIES. AFRICAN, ASIAN, LATIN AMERICAN AND EASTERN EUROPEAN REGIONAL GROUPS ALL AGREED THAT US SHOULD BE COUNTED IN WEO QUOTA OF SEATS ON BOTH COMMITTEES CONCERNED, WITH UNDERSTANDING ON PART OF REGIONAL CHAIRMEN, AND SHARED BY SOME MEMBERS OF THEIR RESPECTIVE GROUPS, THAT US SHOULD BE REPRESENTED ON BOTH. WEOS, ON OTHER HAND, ARGUED THAT US HAD NOT GENERALLY BEEN TREATED AS MEMBER OF THEIR GROUP AND PROVIDING SEATS FOR US WOULD PLACE GROUP AT LESS THAN PARITY WITH OTHERS. SITUATION FURTHER COMPLICATED BY INITIAL UK AND FRENCH DESIRE FOR SEATS ON BOTH COMMITTEES AS PERMANENT MEMBERS OF SECURITY COUNCIL.

8. IN THIS ALREADY COMPLICATED SITUATION PRC MADE FORMAL PROPOSAL THAT NO STATE PARTICIPATING IN THE CONFERENCE SHOULD HAVE THE RIGHT OF "DUAL REPRESENTATION" -- SEATS ON BOTH GENERAL AND DRAFTING COMMITTEES. COMPROMISE SOLUTION ON ALLOCATION OF SEATS FINALLY WORKED OUT ON BASIS ORIGINALLY PROPOSED BY CANADIAN REP. US CANDIDACY FOR VICE PRESIDENCY WAS PUT TO VOTE ALONG WITH OTHER WEO CANDIDACIES, AND AS RESULT WE BECAME MEMBERS OF GENERAL COMMITTEE ALSO, AS DID USSR. TO MAKE THIS POSSIBLE, AMERASINGHE ADROITLY SHELVED CHINESE PROPOSAL WITHOUT PREJUDICE TO POSITION OF PARTICIPANTS THROUGH FOLLOWING FORMULA TO WHICH HE SECURED NO-OBJECTION AGREEMENT: "NO STATE SHALL BEGIN UNDERLINE AS OF RIGHT END UNDERLINE BE REPRESENTED ON MORE THAN ONE MAIN ORGAN OF THE CONF."

9. FROM POINT OF VIEW OF US STATUS IN UN AND AT OTHER INTERNATIONAL CONFERENCES, EXPERIENCE OF LOS ORGANIZATIONAL SESSION LIMITED OFFICIAL USE
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INDICATES THAT IT IS INCREASINGLY DIFFICULT FOR US TO MAINTAIN SPECIAL STATUS AS ONE OF PERMANENT SC MEMBERS. CHINESE, AS INDICATED ABOVE, DID NOT WANT SUCH STATUS FOR THEMSELVES OR FOR OTHER PERMANENT MEMBERS. SOVIETS INSISTED ON SPECIAL STATUS (BUT HAD NO DIFFICULTY OBTAINING IT SINCE EASTERN EUROPEAN GROUP AUTOMATICALLY "ELECTS" THEM TO REPRESENT GROUP IN MAJOR BODIES). FRENCH TOOK STANCE THAT EITHER ALL BIG POWERS OR NONE SHOULD HAVE SPECIAL STATUS, ALTHOUGH IN THE END THEY BACKED AWAY FROM THAT POSITION. UK COULD LIVE WITH SPECIAL STATUS FOR US AND USSR, BUT NOT FOR FRANCE (IF UK NOT TREATED EQUALLY). IN THE END, UNDERSTANDING OF CONFERENCE PRESIDENT OF POLITICAL REQUIREMENTS FOR SUCCESSFUL TREATY FACILITATED SENSIBLE OUTCOME.

10. ON OTHER HAND, FROM US POINT OF VIEW FAILURE TO ACHIEVE CONSENSUS ON RULES WAS DISTURBING. HOWEVER, PROLOGATION OF EFFORTS AT CONSENSUS BY AMERASINGHE SEEMS PREFERABLE TO WHAT WOULD HAVE BEEN AT BEST A CONFUSED AND CONTENTIOUS VOTE ON RULES IN FINAL HOURS OF THE SESSION WITHOUT ADEQUATE CONSIDERATION OF NEGOTIATION BECAUSE FIRST 10 DAYS OF SESSION DEVOTED EXCLUSIVELY TO COMITE COMPOSITION QUESTION. FIRST PHASE OF CONFERENCE CLOSED

ON NOTE OF CONCERN OVER PROSPECT THAT FIRST WEEK OF CARACAS
SESSION (SCHEDULED 20 JUNE - 29 AUG.) MAY HAVE TO BE DEVOTED
ENTIRELY TO ADOPTION OF RULES OF PROCEDURE.
BENNETT

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Message Attributes

Automatic Decaptioning: X
Capture Date: 10 MAY 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, AGREEMENTS, UNGA RESOLUTIONS, ELECTION FRAUD
Control Number: n/a
Copy: SINGLE
Draft Date: 18 DEC 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: worrelsw
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973USUNN05696
Document Source: ADS
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: n/a
From: USUN NY
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731257/abqcelkt.tel
Line Count: 169
Locator: TEXT ON-LINE
Office: ACTION DLOS
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: worrelsw
Review Comment: n/a
Review Content Flags:
Review Date: 09 OCT 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <09-Oct-2001 by elyme>; APPROVED <07 MAR 2002 by worrelsw>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LOS: SUMMARY OF LAW OF THE SEA CONFERENCE ORGANIZATION SESSION
TAGS: PBOR, US, UN
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005